

Message Text

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ACTION EUR-12

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SUBJECT: UNCTAD - FOLLOW UP OF THE UN LINER CODE

TEXT OF NOTE SUBMITTED TODAY TO MTC SECRETARIAT BY THE
DELEGATE FOR GERMANY FOLLOWS:

1. REPRESENTATIVES OF TWO DEVELOPING COUNTRIES, INDIA
AND SRI LANKA, HAVE APPROACHED US RECENTLY TO EXPLORE
THE IDEA OF AN INFORMAL MEETING OF THE KEY SUPPORTERS
AND OPPONENTS OF THE CONVENTION ON THE CODE OF CONDUCT
FOR LINER CONFERENCES. THE PURPOSE WOULD BE TO REOPEN
A DIALOGUE BETWEEN DEVELOPED AND DEVELOPING COUNTRIES,
ON A STRICTLY INFORMAL BASIS, ENABLING A RE-ASSESSMENT
OF THE SITUATION THAT HAS EMERGED AND TO DISCUSS MEASURES
WHICH COULD BE ADOPTED TO BRING THE CONVENTION
INTO FORCE WITHOUT AFFECTING ADVERSELY THE EXISTING
LINES OF MEMBER COUNTRIES. THE MEETING IN THE VIEW OF
ITS PROPONENTS MIGHT EXPLORE RESERVATIONS NECESSARY TO
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BROADEN THE BASIS OF ACCEPTANCE OF THE CODE AND COULD

EVEN DEFINE AREAS FOR AMENDMENT TO BE PURSUED AFTER THE CONVENTION HAS COME INTO FORCE.

2. THE MEETING SHOULD BE HELD WELL IN ADVANCE OF THE UNCTAD SHIPPING COMMITTEE SO THAT ANY AGREEMENT THAT MIGHT BE REACHED COULD BE CHANNELLED INTO THE SHIPPING COMMITTEE FOR FURTHER CONSIDERATION, IF NECESSARY.

3. IN EXPLANATION OF THIS IDEA, THE REPRESENTATIVE OF SRI LANKA SAID THAT A DRAMATIC CHANGE IN THE ATTITUDE OF THE DEVELOPING COUNTRIES TO THE CONVENTION WOULD OCCUR, IF THE CONVENTION WAS NOT BROUGHT INTO FORCE WITHIN THE NEXT YEAR OR TWO. A PROLIFERATION OF BILATERAL AGREEMENTS AND NATIONAL LEGISLATION COULD AFFECT PARTICULARLY COUNTRIES WHOSE MERCHANT FLEETS DEPEND LARGELY ON THE CARRIAGE OF CARGO MOVING BETWEEN THIRD COUNTRIES. THE INDIAN REPRESENTATIVE MENTIONED THE NECESSITY OF DEVELOPED COUNTRY SUPPORT FOR THE CONVENTION IF THE CODE WAS TO REMAIN AN ATTRACTIVE ALTERNATIVE TO BILATERAL SOLUTIONS FOR THE DEVELOPING COUNTRIES. BOTH REPRESENTATIVES SOUGHT TO FIND OUT THE RESPONSE WITH WHICH AN INITIATIVE OF THIS KIND WOULD MEET AND WOULD PROBABLY ACT ACCORDINGLY. THE INDIAN REPRESENTATIVE FELT THAT THE INVITATION FOR SUCH A MEETING SHOULD COME FROM A COUNTRY THAT EITHER HAD RATIFIED THE CODE OR WAS IN THE PROCESS OF DOING SO. THE REPRESENTATIVE OF SRI LANKA THOUGHT OF A PREARRANGED MEETING IN WESTERN EUROPE TO FACILITATE ATTENDANCE.

4. WITHOUT EXPRESSING ANY OPINION ON THESE IDEAS, THE GERMAN DELEGATION WISHES TO COMMUNICATE THEM TO THE MARITIME TRANSPORT COMMITTEE FOR AN EXCHANGE OF VIEWS.

COMMENT: SINCE WE ASSUME THE BASIC US POSITION ON SUBSTANCE OF UN LINER CODE REMAINS UNCHANGED, IT WOULD APPEAR THAT THERE IS LITTLE CHANCE THAT PROPOSED INFORMAL MEETING COULD RESOLVE THE BASIC INCOMPATIBILITY BETWEEN UN LINER CODE AND OBLIGATIONS UNDER THE OECD INVISIBLES CODE. THE QUESTION POSED BY THE INDIAN/SRI LANKAN APPROACH IS THEN WHETHER (A) THE US COULD BENEFIT FROM LIMITED OFFICIAL USE

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FIT BY AN INFORMAL MEETING TO PRESENT OUR VIEWS TO THE LDCS IN A FORUM IN WHICH ARGUMENTATION MIGHT BE ENTERTAINED HOSPITABLY OR, (B) IN THE EVENT WE SEE NO SUCH BENEFIT, THE INDIAN/SRI LANKAN APPROACH CAN BE GRACEFULLY DECLINED. THE LATTER ACTION WOULD OF COURSE BE EASIER IF A NUMBER OF OTHERS JOINED IN THE VIEW THAT AN INFORMAL MEETING WAS NOT USEFUL OR DESIRABLE. SINCE A NUMBER OF OECD BODIES (THE COUNCIL, THE EXECUTIVE

COMMITTEE, AND THE INVISIBLES COMMITTEE) AS WELL AS THE
MARITIME TRANSPORT COMMITTEE HAVE BEEN DEEPLY ENGAGED
IN THIS UN LITER CODE QUESTION, THE MISSION WOULD
APPRECIATE GUIDANCE WHICH COULD BE USED IN THESE OTHER
BODIES AS WELL AS IN THE MTC.
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